

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN ASSEMBLY JUNE 16, 2010

AMENDED IN SENATE MAY 6, 2010

AMENDED IN SENATE APRIL 27, 2010

AMENDED IN SENATE APRIL 8, 2010

AMENDED IN SENATE MARCH 22, 2010

SENATE BILL

No. 1317

Introduced by Senator Leno
(Coauthor: Assembly Member Chesbro)

February 19, 2010

An act to add Section 48263.6 to the Education Code, and to add Section 270.1 to the Penal Code, relating to truancy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1317, as amended, Leno. Truancy.

(1) Existing law defines a truant as any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without *a* valid excuse 3 full days in one school year, or tardy or absent for more than any 30-minute period during the schoolday without a valid excuse on 3 occasions in one school year, or any combination thereof.

This bill would define a chronic truant as any pupil subject to compulsory full-time education or to compulsory continuing education who is absent from school without *a* valid excuse for 10% or more of the schooldays in one school year, from the date of enrollment to the

current date, provided that the appropriate school district officer or employee has complied with specified provisions of law.

(2) Existing law provides that, if a person is a parent of a minor child, he or she is guilty of a misdemeanor punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail for a period not exceeding one year, or by both that fine and imprisonment, if he or she willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter, medical attendance, or other remedial care for the child.

Under existing law, the parent or guardian of a pupil, who is subject to compulsory full-time education or to compulsory continuation education, whose child is habitually truant, as defined, or fails to perform his or her duty to compel attendance of the pupil, is guilty of a crime.

This bill would provide that a parent or guardian of a pupil of 6 years of age or more who is in kindergarten or any of grades 1 to 8, inclusive, and who is subject to compulsory full-time education or to compulsory continuation education, whose child is a chronic truant, and who has failed to reasonably supervise and encourage the pupil's school attendance, is guilty of a misdemeanor punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail for a period not exceeding one year, or by both that fine and imprisonment. The bill would ~~prohibit a prosecutor from charging~~ *provide that* a parent or guardian ~~with may not be punished for~~ a violation of both these provisions and ~~specified provisions of existing~~ *another specified* law involving criminal liability for parents or guardians of truant children. By changing the definition of an existing crime, this bill would impose a state-mandated local program.

The bill would authorize a superior court to establish a deferred entry of judgment program, meeting specified conditions, to adjudicate cases involving parents or guardians of elementary school pupils who are chronic truants. The bill would authorize a deferred entry of judgment program established under the bill to refer defendant parents or guardians for services, including, but not necessarily limited to, case management, mental and physical health services, parenting classes and support, substance abuse treatment, and child care and housing. The bill would authorize the deferment of entry of judgment in these cases upon the defendant's compliance with terms and conditions set forth by the court. The bill would require that funding for the deferred entry of judgment program come solely from nonstate sources.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 48263.6 is added to the Education Code,
2 to read:

3 48263.6. Any pupil subject to compulsory full-time education
4 or to compulsory continuation education who is absent from school
5 without a valid excuse for 10 percent or more of the schooldays
6 in one school year, from the date of enrollment to the current date,
7 is deemed a chronic truant, provided that the appropriate school
8 district officer or employee has complied with Sections 48260,
9 48260.5, 48261, 48262, 48263, and 48291.

10 SEC. 2. Section 270.1 is added to the Penal Code, to read:

11 270.1. (a) A parent or guardian of a pupil of six years of age
12 or more who is in kindergarten or any of grades 1 to 8, inclusive,
13 and who is subject to compulsory full-time education or
14 compulsory continuation education, whose child is a chronic truant
15 as defined in Section 48263.6 of the Education Code, and who has
16 failed to reasonably supervise and encourage the pupil's school
17 attendance, is guilty of a misdemeanor punishable by a fine not
18 exceeding two thousand dollars (\$2,000), or by imprisonment in
19 a county jail not exceeding one year, or by both that fine and
20 imprisonment. A parent or guardian guilty of a misdemeanor under
21 this subdivision may participate in the deferred entry of judgment
22 program defined in subdivision (b).

23 (b) A superior court may establish a deferred entry of judgment
24 program that includes the components listed in paragraphs (1) to
25 (6) (7), inclusive, to adjudicate cases involving parents or guardians
26 of elementary school pupils who are chronic truants as defined in
27 Section 48263.6 of the Education Code:

28 (1) A dedicated court calendar.

29 (2) Leadership by a judge of the superior court in that county.

1 (3) *Meetings, scheduled and held periodically, with school*
2 *district representatives designated by the chronic truant's school*
3 *district of enrollment. Those representatives may include school*
4 *psychologists, school counselors, teachers, school administrators,*
5 *or other educational service providers deemed appropriate by the*
6 *school district.*

7 ~~(3) Service referrals for parents or guardians, including, but not~~
8 ~~necessarily limited to, all of the following:~~

9 (4) *Service referrals for parents or guardians, as appropriate*
10 *to each case that may include, but are not limited to, all of the*
11 *following:*

12 (A) Case management.

13 (B) Mental and physical health services.

14 (C) Parenting classes and support.

15 (D) Substance abuse treatment.

16 (E) Child care and housing.

17 ~~(4)~~

18 (5) A clear statement that, in lieu of trial, the court may grant
19 deferred entry of judgment with respect to the current crime or
20 crimes charged if the defendant pleads guilty to each charge and
21 waives time for the pronouncement of judgment and that, upon
22 the defendant's compliance with the terms and conditions set forth
23 by the court and agreed to by the defendant upon the entry of his
24 or her plea, and upon the motion of the prosecuting attorney, the
25 court will dismiss the charge or charges against the defendant and
26 ~~Sections~~ *the same procedures specified for successful completion*
27 *of a drug diversion program or a deferred entry of judgment*
28 *program pursuant to Section 851.90 and the provisions of Section*
29 *1203.4 shall apply.*

30 ~~(5)~~

31 (6) A clear statement that failure to comply with any condition
32 under the program may result in the prosecuting attorney or the
33 court making a motion for entry of judgment, whereupon the court
34 will render a finding of guilty to the charge or charges pled, enter
35 judgment, and schedule a sentencing hearing as otherwise provided
36 in this code.

37 ~~(6)~~

38 (7) An explanation of criminal record retention and disposition
39 resulting from participation in the deferred entry of judgment
40 program and the defendant's rights relative to answering questions

1 about his or her arrest and deferred entry of judgment following
2 successful completion of the program.

3 (c) Funding for the deferred entry of judgment program pursuant
4 to this section shall be derived solely from nonstate sources.

5 (d) ~~A prosecutor shall not charge a parent or guardian of an~~
6 elementary school pupil who is a chronic truant, as defined in
7 Section 48263.6 of the Education Code, ~~with~~ *may not be punished*
8 *for a violation of both this section and the provisions of Section*
9 *272 that involve criminal liability for parents and guardians of*
10 *truant children.*

11 (e) *If any district attorney chooses to charge a defendant with*
12 *a violation of subdivision (a) and the defendant is found by the*
13 *prosecuting attorney to be eligible or ineligible for deferred entry*
14 *of judgment, the prosecuting attorney shall file with the court a*
15 *declaration in writing, or state for the record, the grounds upon*
16 *which that determination is based.*

17 SEC. 3. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.